

20201297D

HOUSE BILL NO. 5029

FLOOR AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by Senator Locke
on October 2, 2020)

(Patron Prior to Substitute—Delegate McQuinn)

A BILL to amend the Code of Virginia by adding in Title 19.2 a chapter numbered 7.1, consisting of sections numbered 19.2-83.3, 19.2-83.4, and 19.2-83.5, relating to law-enforcement officer; failure to intervene in use of excessive force; penalties.

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Title 19.2 a chapter numbered 7.1, consisting of sections numbered 19.2-83.3, 19.2-83.4, and 19.2-83.5, as follows:

CHAPTER 7.1.

LAW-ENFORCEMENT OFFICER CONDUCT DURING AN ARREST OR DETENTION.

§ 19.2-83.3. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Excessive force" means any force that is objectively unreasonable given the totality of the circumstances, including the severity of the crime at issue, whether the suspect poses an immediate threat to the safety of the officers or others, and whether the suspect is actively resisting arrest or attempting to evade arrest by flight.

§ 19.2-83.4. Failure of a law-enforcement officer to intervene in use of excessive force.

A. Any law-enforcement officer who, while in the performance of his official duties, witnesses another law-enforcement officer engaging or attempting to engage in the use of excessive force against another person shall intervene, when such intervention is feasible, to end the use of excessive force or attempted use of excessive force, or to prevent the further use of excessive force. A law-enforcement officer shall also render aid, as circumstances objectively permit, to any person injured as the result of the use of excessive force.

B. Any law-enforcement officer who intervenes pursuant to subsection A or who witnesses another law-enforcement officer engaging or attempting to engage in the use of excessive force against another person shall report such intervention or use of excessive force in accordance with the law-enforcement officer's employing agency's policies and procedures for reporting misconduct committed by a law-enforcement officer. No employing agency shall retaliate, threaten to retaliate, or take or threaten to take any disciplinary action against a law-enforcement officer who intervenes pursuant to subsection A or makes a report pursuant to this subsection.

§ 19.2-83.5. Penalties for violations of this chapter.

In addition to any other penalty authorized by law, any law-enforcement officer who knowingly violates the provisions of this chapter shall be subject to disciplinary action, including dismissal, demotion, suspension, or transfer of the law-enforcement officer or decertification as provided in subsection D of § 15.2-1707.